

This document serves as guidance to the South Carolina General Permit For Storm Water Discharges From Large and Small Construction Activities, SCR100000 (CGP). The purpose of this document is to clarify questions and further explain the language in the permit. This is presented in a question and answer format, which includes actual questions that we have received from external parties. This will be a living document, and we anticipate that questions will be generated and added as the implementation of the permit progresses. If you have additional questions that you would like addressed and added, please send those to stormwatercgp@dhec.sc.gov.

The coastal counties or the coastal zone as referred to in this document includes the following counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper.

1. What are the major changes in this permit?

Following is an outline of the major changes in the permit. This list is not all-inclusive but highlights the major modifications from the 1998 permit.

- A.** Permit advises permittees about US Army Corps of Engineers 404 permit requirement. This requirement is not new, but this is the first time the permit has stated this permit must be obtained prior to issuance of coverage under this permit under certain circumstances. This is an informational item to help the permittee understand what other permits may be required before coverage can be granted.
- B.** Permit advises permittees about the State Navigable Waters permit requirement. This is the first time that the State Navigable Waters permit has been issued concurrently with coverage under this permit.
- C.** Permit requires the fee to be paid. This is not a new requirement but it is the first time this has been addressed in the permit. It is an informational item to advise the permittee there is a fee under SC Regulation 61-30 for coverage under the permit. The fee is not new. The appropriate fees must be submitted for the Notice of Intent (NOI) to be considered complete.
- D.** Permit requires a proposed project in the coastal zone to be consistent with the Coastal Zone Management Plan. This is not a new requirement, but it is being addressed since local governments will be issuing permits for construction activity under their local Stormwater Program implemented to comply with Municipal Separate Storm Sewer System (MS4) NPDES Permit requirements. (See FAQ #6 for additional information)
- E.** A pre-construction conference must be performed onsite for non-linear projects disturbing 10 acres or more (off-site must be approved by DHEC) with each co-permittee and contractor who will be performing land-disturbing activities prior to the beginning of those land-disturbing activities to ensure the co-permittees and contractors know their responsibilities under the permit.
- F.** Owners of projects disturbing 10 acres or more must submit monthly reports summarizing their inspections and compliance with the general permit. The first monthly report must include all co-permittee and contractor certification statements. Sites disturbing less than 10 acres may be required to submit monthly reports on a case-by-case basis.

- G. Requirements for compliance with Total Maximum Daily Loads (TMDLs) have been added. These are not new requirements, but it is the first time these requirements have been addressed in the permit. This is based on the requirements under SC Regulation 61-68, Water Classifications and Standards and SC Regulation 61-9, Water Pollution Control Permits.
- H. Permit clarifies when temporary structural controls (i.e., sediment ponds) may be placed in ephemeral and intermittent streams. This is not a new requirement, but it is the first time it has been addressed in the permit.
- I. Permittee inspection frequency has been modified to allow more flexibility. Previous permittee inspection frequency was once every 7 days and within 24-hours of the end of a 0.5 inch or greater rainfall event. Permittees may now choose between: a) once every 7 days, or b) once every 14 days and within 24-hours of the end of a 0.5 inch or greater rainfall event. The chosen option must be designated prior to approval of and designated in the SWPPP.
- J. Permit specifies the minimum qualifications for personnel conducting the above-referenced inspections on behalf of the permittee.
- K. Permit allows owners of long, narrow linear construction projects (e.g., utility lines, pipelines or road construction) to perform representative inspections along the project length for ¼ mile above and below each access point where a road or other similar feature intersects the construction and allows access.
- L. Permit specifies that all projects must meet the minimum requirements of SC Regulation 72-300 et seq. beginning July 1, 2005. (It was anticipated that the permit would be effective prior to that date; therefore, this requirement is effective on the effective date of September 1, 2006.) The permit has always required projects to meet all local and state requirements. This requirement just acknowledges the requirements of 72-300 et seq. and eliminates the permit duplication between the State Sediment and Erosion Control Program and the Construction Stormwater NPDES Program. With the implementation of this permit, the Department will be issuing NPDES coverage under this permit to address both regulations.
- M. The time frames for review have been changed. For projects reviewed by delegated entities, MS4, etc., DHEC will have 7 business days from receipt of complete NOI to issue a letter granting coverage, denying coverage, or requesting additional information. For projects that are reviewed solely by DHEC (except SCDOT projects), DHEC will have 20 calendar days from receipt of **complete** NOI to issue a letter granting coverage, denying coverage, or requesting additional information.
- N. When submitting a Notice of Termination for a permit for a project disturbing more than 2 acres, a certification statement, signed and dated by the SWPPP preparer or someone with registration equivalent to the SWPPP preparer, that, to the best of their knowledge and belief, all work was conducted and completed in accordance with the approved SWPPP and the CGP, must be included. Must also state that deficiencies that were noted in monthly reports have been corrected.

2. What types of projects require coverage under the CGP?

This is covered in section 1.3 and by the definition of large and small construction activities in Appendix A, which is the definition from 61-9.

Coverage under this permit is required for land-disturbing activities (including but not limited to clearing, grading, excavation, placement of fill, and any other construction that results in land disturbance) equal to or greater than one acre or any amount of land disturbance within one-half mile of a receiving water body in the coastal counties (please see # 3 for more on the coastal counties).

3. Can you provide clarification on the intent under part two for the Coastal counties?

We recognize that in the coastal areas the definition of within ½ mile of a waterbody applies to almost all projects. For very small projects (land disturbance of 0.5 acres or less), it is not required that an NOI be submitted for review, and automatic coverage is granted under this permit. These projects are still required to meet the conditions of this permit. If it is determined that the project is not in compliance, the Department can request that an NOI be submitted.

(The first sentence just reinforces that, for projects not in the coastal counties as stated above, an NOI must be submitted for projects disturbing one acre or greater to obtain coverage under this permit)

4. What are the turnaround times under this new permit for reviews?

This is addressed in Section 2.1.

For all projects that are initially reviewed by a program that has been delegated plan review authority under 72-300 et seq. or has an approved program as an MS4, the Department has 7 business days to provide comment on these projects, or they are automatically granted coverage. A list of delegated and DHEC-approved programs may be found at: <http://www.scdhec.net/water/html/erfdelglist.html>

For projects (except SCDOT) that are reviewed solely by DHEC, we have 20 calendar days to provide comment, or coverage is automatically granted.

5. If I receive comments back on my project, how does that affect my review time?

As stated in Section 2.1, the timeframes are based on receipt of a **complete** NOI. If you receive comments on your NOI review package, it is considered to be incomplete. Upon the Department's receipt of your response to those comments, the time clock is restarted as stated above. We will make every effort to expedite those, especially if there are minor comments.

6. For projects in the coastal counties, how does this permitting process interface with the OCRM Coastal Zone Consistency process?

For projects located in the coastal counties, the NOI review package should first be sent to SCDHEC-OCRM for review for consistency with the Coastal Zone Management Plan. Your

complete package must include payment of fees. These should be sent to the following addresses:

Beaufort, Jasper and Dorchester Counties:

S.C. DHEC-OCRM
104 Parker Drive
Beaufort, S.C. 29906

Charleston, Colleton, Berkeley and Georgetown Counties:

S.C. DHEC-OCRM
1362 McMillan Ave., Suite 400
Charleston, S.C. 29405

Horry County:

S.C. DHEC-OCRM
927 Shine Ave.
Myrtle Beach, S.C. 29577

Upon completion of that review, OCRM will forward their letter stating that the project is consistent with the Coastal Zone Management Plan to the Construction Stormwater Permitting office located in Columbia to issue the NPDES permit. For the coastal counties, this is required as specified in 2.2.C.3 in order for the NOI application to be considered complete. Once the NOI is considered to be complete, the Department will have 20 days to issue a letter granting coverage, denying coverage, or requesting additional information.

Note: Currently, there are no coastal counties that have delegated review authority under 72-300 et seq. or MS4 construction review programs. However, with the implementation of the SMS4 programs, there will be several within the next 18 months. When those programs are operational, the NOI review package should be sent to both the designated review entity (city/county) and to OCRM for coastal zone consistency review, prior to being sent to the Columbia office for issuance of the NPDES permit. This section will be fully updated as this process progresses.

7. How does this new permit affect previously permitted projects?

This is addressed in section 2.3. If you received coverage under the 1998 permit, you will be required to comply with the terms of that permit. (You will not be required to start the new inspection requirements in Section 3.10). However, please note that, if there are any future phases of or major modifications to a previously permitted project, an NOI must be submitted and will be reviewed according to the new CGP, and those phases and modifications will be required to comply with all conditions of this permit. Minor modifications to projects permitted under the 1998 permit will be allowed. Please contact the Department to determine if the modification is considered minor.

8. For projects currently under review by DHEC before the effective date of the permit, how will you determine under which CGP these will be granted coverage?

A copy of the document that explains the deadlines for coverage under the 1998 General Permit has been inserted below. This document was sent to engineers who had submitted applications for state land disturbance permits and NOI's for coverage under SCR100000 to the Department since 1/1/2004.

**"Deadlines for Coverage under the 1998 NPDES Construction General Permit
SCR100000, (1998 CGP)**

New Projects for Review by S.C. DHEC Stormwater Permitting Section

- For new projects disturbing at least 1 acre and less than or equal to 2 acres that are not part of a larger common plan for development or sale, the application package must be received* by the Department on or before **8/10/06** (22 calendar days before 9/1/06),

and the application and supporting documentation must be technically and administratively complete** as determined by the Department.

- For new projects disturbing more than 2 acres and less than 5 acres that are not part of a larger common plan for development or sale, the application package must be received* by the Department on or before **8/18/06** (10 business days before 9/1/06), and the application and supporting plans and calculations must be technically and administratively complete** as determined by the Department.
- For new projects disturbing 5 acres or more, the application package must be received* by the Department on or before **8/4/06** (20 business days before 9/1/06), and the application and supporting plans and calculations must be technically and administratively complete** as determined by the Department.
- For new projects that are presently exempt from the requirements of S.C. Reg. 72-300 et seq., specifically 72-302, the Notice of Intent (NOI) must be postmarked to the Department on or before **8/10/06** (22 calendar days before 9/1/06), and the NOI and supporting documentation must be technically and administratively complete** as determined by the Department. [Examples—transmission lines, agricultural activities, except buildings]
- For projects of either SCDOT or agents acting on behalf of SCDOT, the NOI, NPDES coverage fee (\$125), and supporting documentation must be postmarked on or before **8/29/06**, and the application and supporting plans and calculations must be technically and administratively complete** as determined by the Department.

If the application package is not technically and administratively complete for new projects received* by the above-referenced deadlines, then the project will not be eligible for coverage under the 1998 CGP. The revisions (in response to review comments issued by DHEC) will be reviewed according to the new CGP. The revision package should include a new, completed application form, and supporting plans and documentation must be prepared in accordance with the NPDES Construction General Permit, SCR100000, with an effective date of 09/01/2006 (new CGP).**

Applications for land disturbing activities and/or NPDES coverage received* after the above-referenced deadlines will not be eligible for coverage under the 1998 CGP. The new application form must be completed, and supporting plans and calculations must be submitted and prepared in accordance with new CGP. The Department will not review projects submitted with the old application forms (DHEC3306 and DHEC2612). These packages will be returned to the engineer as incomplete.

Projects under Review by S.C. DHEC Stormwater Permitting Section

- The revisions (in response to review comments issued by DHEC) must be received* by the Department on or before **8/18/06** and must be technically and administratively complete** as determined by the Department.
- If the revisions are not administratively and technically complete for projects under review by DHEC and received* by the above-referenced deadline, the project will not be eligible for coverage under the 1998 CGP. The revisions (in response to review comments issued by DHEC) will be reviewed according to the new CGP. The revision package should include a new, completed application form, and supporting plans and documentation must be prepared in accordance with the new CGP.

- If the revisions are not received* on or before **8/18/06**, then the project may no longer be eligible for coverage under the 1998 CGP. If the Department is able to review the revisions on or before 8/31/06 and the revisions are technically and administratively complete**, then the project can be granted coverage under the 1998 CGP. If the Department is not able to review the revisions on or before 8/31/06, then the Department will notify you that your project is not eligible for coverage under the 1998 CGP. The new application form must be completed, and supporting plans and calculations must be submitted and prepared in accordance with new CGP.

Projects under Review by S.C. DHEC Office of Ocean and Coastal Resource Management (OCRM)

- For projects under review by OCRM, the approval or exemption letter from OCRM, application, NPDES coverage fee (\$125), and supporting documentation must be dated on or before **8/29/06**.
- If OCRM's approval or exemption is not dated by the above-referenced deadline, then the project will not be eligible for coverage under the 1998 CGP. A new, completed application form must be submitted to OCRM, and supporting plans and documentation must be prepared in accordance with the new CGP for OCRM's review.

Projects under Review by Entities Delegated under S.C. Regulation 72-300 et seq.

- For projects that are currently in review by a delegated entity, the delegated entity's approval letter, application, and NPDES coverage fee (\$125) must be postmarked to the Department on or before **8/29/06**.
- If the delegated entity's approval is not postmarked by the above-referenced deadline, then the project will not be eligible for coverage under the 1998 CGP. A new, completed application form must be submitted, and supporting plans and documentation must be prepared in accordance with the new CGP for review by the delegated entity.

**Please note that "received" corresponds to the day the application package is delivered to S.C. DHEC Bureau of Water office at 2600 Bull Street.*

***Please note that "technically and administratively complete" means that the Department does not need any additional information for a complete project review, required corrections have been made to the application package (plans, calculations, and other supporting documentation), all requirements in the applicable regulations (S.C. Regulation 72-300 et seq. and/or the 1998 CGP) have been addressed in the application package, and all fees have been paid."*

9. I am the owner of the permit and expect to have several contractors on the site. How does the permit address this?

This is addressed in Section 3.2. It is your discretion as the owner of the permit to determine which of your contractor(s) will become a co-permittee or will remain covered under your permit as a contractor or subcontractor who is not a co-permittee. The primary difference between co-permittees and contractors who are not co-permittees is that an enforcement action can be taken directly by the Department against a co-permittee for any violations. All persons performing land-disturbing activities at the site are required to sign one of the statements provided in 3.2.D—either 3.2.D1 or 3.2.D2.

There is a new requirement in 3.2 .A.5 that requires a pre-construction conference be held onsite for non-linear projects that disturb 10 acres or more. All co-permittees and contractors who are not co-permittees are required to attend a pre-construction conference prior to performing land-disturbing activities on the site. Co-permittees and contractors who are not co-permittees must be identified in the SWPPP. As stated in 3.10.I, copies of all co-permittee and contractor certifications must be provided to the Department with the submission of the first monthly report to the Department (required for sites disturbing 10 or more acres). As new co-permittees and contractors are added, their certifications should be added to the SWPPP and included with the next monthly report. We do recognize that as co-permittees complete their work, they may wish to terminate their co-permittee agreements. This should be documented in the SWPPP, which is required to be kept onsite, and, for sites disturbing 10 or more acres, will be sent to the Department through the submission of the monthly report.

10. What are the responsibilities of the preparer of the SWPPP?

- A. As stated in 3.1.A, for sites disturbing more than 2 acres, the preparer of the SWPPP must sign and stamp the SWPPP as a registered P.E., registered Landscape Architect, Tier B land surveyor or a federal government employee.
- B. Section 3.10.I and J require that the preparer of the SWPPP (or someone with a registration equivalent to the preparer of the SWPPP) certify that a pre-construction conference was held with each co-permittee or contractor prior to him performing land-disturbing activities on the site for Non-linear projects disturbing 10 or more acres.
- C. Section 5.2. Item 6 requires that the preparer of the SWPPP (or someone with registration equivalent to the preparer of the SWPPP) sign a certification statement as part of the NOT. (More information on this is also provided in section 3.10.M.)
- D. Section 3.10.D requires that inspections be performed by qualified personnel. Qualified personnel is defined as the preparer of the SWPPP (or person with the registration equivalent to the preparer of the SWPPP), a person under the direct supervision of the SWPPP preparer (or person with the registration equivalent of the SWPPP preparer), or an individual who has been certified through a construction site inspector certification course that has been approved by DHEC. If the inspections are performed by someone under the direct supervision of the SWPPP preparer or person with the registration equivalent to the SWPPP preparer, the inspection reports must still be signed by the SWPPP preparer (or person with registration equivalent to the SWPPP preparer).

[Please note that having the inspector certification only qualifies an individual to perform inspections. An individual with that certification (who is not a registered P.E., registered Landscape Architect, Tier B land surveyor or federal government employee) is not authorized to sign and certify items A, B and C listed above.]

11. Please provide an explanation of section 3.9.

Section 72-302.A.5 of the S.C. Stormwater Management and Sediment Reduction Regulations (72-300 et seq.) allows the Department to exempt a site from obtaining a permit if another state or federal permit, license or certification is conditioned on compliance with the minimum standards and criteria of 72-300 et seq. The Department plans to use this exemption for all projects under review by the Department. For projects reviewed solely by

the Department, on and after September 1, 2006, you will no longer be issued a state permit for land disturbing activities and NPDES coverage under SCR100000 for the same project.

For projects under review by an entity with delegated review authority under 72-300 et seq., that entity will continue to issue state permits under 72-300 et seq. Once the delegated entity issues the state permit for land disturbing activities, they will forward a copy of their approval letter, the application form (NOI), and fee (\$125 for NPDES coverage) to the Department to issue NPDES coverage under the CGP.

Also be advised that coverage may be required under an MS4 program (or other local requirements). This provision in no way waives the applicant of the responsibility of obtaining those permits.

12. What are the new inspection requirements?

These are fully explained in Section 3.10. I will highlight a few of the most significant changes.

Inspection Frequency

There has been a change in the required frequency of inspections. This new permit allows a choice:

- A. Inspections must be performed at least every 7 calendar days **or**
- B. Every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

(Please note that you must specify in your SWPPP which inspection frequency you will be performing.) This is fully explained in 3.10.A, B and C.

Qualified Inspector

Inspections must be performed by qualified personnel as outlined in 3.10.D. There is a provision that an individual who has been certified through a construction site inspector certification course that has been approved by DHEC can perform these. Currently, only Clemson University has applied for and received the approval to provide this certification. Information about their program can be obtained at the following website:

<http://www.ces.clemson.edu/t3s/cepsci/workshops/workshops.htm>. This program is administered by Clemson University, and questions about registration, course dates, issuance of cards, etc. should be directed to Clemson.

Monthly Reports

For sites that disturb 10 acres or more, there is a requirement to submit monthly reports. These requirements are outlined in 3.10.H, I, K, L, M, and N. For sites that are part of a larger common plan for development or sale (LCP), when the cumulative disturbed area for all of the phases or sites is equal to or greater than 10 acres, then monthly reports are required for all subsequent phases or projects that are part of that LCP.

13. What has changed in the Notice of Termination NOT process?

This process is fully covered in Section 5.

When the permit should be terminated is addressed in Section 5.1—when final stabilization has occurred over the entire site, when another operator has assumed control, coverage under another individual or alternative general NPDES permit has been obtained, or, for residential projects, when temporary stabilization has occurred and the property is transferred to the homeowner. If another operator has assumed control (e.g., a homebuilder has bought the lot), the NOT will not be accepted until that operator has submitted an NOI. This will be accomplished on the Transfer of Ownership/ Coverage form that is being developed—this form will be posted on the website as soon as it is finalized.

Note that 5.2. Items 5 and 6 require that the NOT be certified by both the authorized representative (as defined in Section 122.22 of S.C. Reg. 61-9, included in Appendix C) **and** the preparer of the SWPPP (or a person with registration equivalent to the SWPPP preparer).

Please be aware that 3.10.M requires that the monthly reports for sites disturbing 10 acres or greater (or sites disturbing less than 10 acres on a case-by-case basis) be submitted until an NOT is submitted.

14. If you have two lots remaining on a site (or very few), and they are stabilized, can you do an NOT? How about under the co-permittee?

The Department will accept an NOT if a subdivision is 90% complete and there are not more than 10 lots remaining to be developed, providing that those areas are stabilized and the disturbed area on each lot will be less than 1 acre.

Please note that we are developing guidance for subdivisions and will post it on our website as soon as we have additional information.

15. Assume that I'm going to inspect a project every seven days, and I decide to do it the same day every week. At some point, my standard day falls on a holiday. If I inspect it the day before the holiday, and then on my regular day on the following week, I've violated the seven-day timeframe. If I inspect it the day after on the holiday, then I've exceeded the seven-day requirement from the previous inspection. The obvious answer is to do the inspection on the holiday, but that ends up creating a problem for a lot of people. (This question was raised by a third party inspection company that tries to maintain regular schedules and would like to always complete their inspections on the same day. The question is "Is there any flexibility with respect to holidays?")

Section 3.10 states that inspections must be conducted at a minimum in accordance with one of the two schedules listed below (listed on the SWPPP) – at least once every 7 calendar days or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

The Department does not require that these inspections be spaced at seven-day intervals but that they must be conducted at a minimum of every seven days.